

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BANGLADESH BANK,

Case No. 19-cv-983-LGS

Plaintiff,

v.

RIZAL COMMERCIAL BANKING CORPORATION,
MARIA SANTOS DEGUITO, ANGELA RUTH
TORRES, LORENZE V. TAN, RAUL VICTOR B. TAN,
ISMAEL S. REYES, BRIGITTE R. CAPIÑA, NESTOR
O. PINEDA, ROMUALDO S. AGARRADO, PHILREM
SERVICE CORP., SALUD BAUTISTA, MICHAEL
BAUTISTA, CENTURYTEX TRADING, WILLIAM SO
GO, BLOOMBERRY RESORTS AND HOTELS, INC.
D/B/A SOLAIRE RESORT & CASINO, EASTERN
HAWAII LEISURE COMPANY, LTD. D/B/A MIDAS
HOTEL & CASINO, KAM SIN WONG A/K/A KIM
WONG, WEIKANG XU, DING ZHIZE, GAO
SHUHUA, and JOHN DOES 1-25,

Defendants.

AFFIDAVIT

GAIL BURWA, being duly sworn, deposes and says:

1. I am not a party to this action, am over 18 years of age, and am employed as a paralegal at the law firm of Cozen O'Connor, counsel to Plaintiff Bangladesh Bank ("Plaintiff" or "Bangladesh Bank") in the above-captioned action (the "Action"). I am fully competent to make this affidavit and I have personal knowledge of the facts stated in this affidavit unless otherwise specified.

2. On the dates and times and upon the defendants via the means described below, I submitted to the foreign mailing clerks at the Southern District of New York true and correct

copies of the (i) Complaint (Dkt. No. 1); (ii) Civil Cover Sheet (Dkt. No. 2); (iii) Rule 7.1 Corporate Disclosure Statement (Dkt. No. 3); (iv) Summons (Dkt. Nos. 24-40, 44-46, 48); (v) a Notice of Lawsuit and Request to Waive Service of a Summons; (vi) a Waiver of the Service of Summons; (vii) the Individual Rules and Procedures for Civil Cases of United States District Judge Lorna G. Schofield; (viii) the Individual Practices in Civil Cases of United States Magistrate Judge Ona T. Wang (the eight foregoing documents collectively the “First Service Package”); and (ix) the Court’s Order of February 15, 2019 (Dkt. No. 49) (the “Order” or the “Second Service Package,” and collectively with the First Service Packages, the “Packages”).¹

3. Pursuant to the United States District Court for the Southern District of New York (“SDNY”), Clerk’s Office Foreign Mailing Instructions, and the directions of the Clerk of this Court, on February 19, 2019, I delivered by hand the First Service Package, along with a letter of request and a duplicate copy of the First Service Package for the Court’s file, to the Clerk of this Court for service pursuant to Federal Rules of Civil Procedure 4(f)(2)(C)(ii) and 4(h) by FedEx.

4. On the same day, the Clerk of this Court sent and docketed a Clerk’s Certificate of Mailing for 20 copies of the First Service Package to 17 of the defendants in the Action (three defendants had two addresses) at the addresses in the Philippines listed on the FedEx waybill and reproduced on the Clerk’s Certificate of Mailing along with the FedEx tracking numbers for each (Dkt. Nos. 50-69).

5. Subsequently, on February 25, 2019, pursuant to the SDNY Clerk’s Office Foreign Mailing Instructions, and at the direction of this Court, I delivered by hand the Order, along with a letter of request and a duplicate copy of the Second Service Package for the Court’s

¹ Cozen O’Connor has also retained local Philippine counsel to attempt service on Defendants.

file, to the Clerk of this Court for service pursuant to Federal Rules of Civil Procedure 4(f)(2)(C)(ii) and 4(h) by FedEx.

6. On February 25 and 26, 2019, the Clerk of this Court sent and docketed a Clerk's Certificate of Mailing for 20 copies of the Second Service Package to the same 17 defendants in the Action (three defendants had two addresses) at the addresses in the Philippines listed on the FedEx waybill and reproduced on the Clerk's Certificate of Mailing along with the FedEx tracking numbers for each (Dkt. Nos. 70-89).

7. The only defendants in this Action for whom service was not attempted by means of the Clerk of this Court were Weikang Xu, Ding Zhize, Gao Shuhua, and John Does 1-25.

8. According to the FedEx tracking log and proof of delivery, the Packages were delivered to the following defendants:

- a. Maia Santos Deguito, as set forth in the delivery confirmations dated February 22, 2019 and February 28, 2019, for tracking numbers 785480292128 and 785480084710, and 785626985086 and 785627300856, respectively. A true and correct copy of the delivery confirmations and tracking logs are attached hereto as Exhibit A.
- b. Ismael S. Reyes, with respect to the First Service Package, as set forth in the delivery confirmation dated February 22, 2019 for tracking number 785483342125. The Second Service Package was refused for delivery to the same address, as set forth in the tracking log for tracking number 785625929035. A true and correct copy of the delivery confirmation and tracking logs are attached hereto as Exhibit B.
- c. Romualdo S. Agarrado, with respect to the First Service Package, as set forth in the delivery confirmation dated February 22, 2019 for tracking number 785477716454. Delivery remains pending for the Second Service Package, as set forth in the tracking log for tracking number 785628460162. A true and correct copy of the delivery confirmation and tracking logs are attached hereto as Exhibit C.
- d. Philrem Service Corp., as set forth in the delivery confirmations dated February 22, 2019, and February 28, 2019 for tracking numbers 785482475936 and 785626429623, respectively. A true and correct copy of the delivery confirmation and tracking log is attached hereto as Exhibit D.

- e. Bloomberry Resorts and Hotels, Inc. d/b/a Solaire Resort & Casino, as set forth in the delivery confirmations dated February 22, 2019 and February 28, 2019 for tracking numbers 785478343133 and 785628043114, respectively. A true and correct copy of the delivery confirmation and tracking logs are attached hereto as Exhibit E.
- f. Kam Sin Wong a/k/a Kim Wong., as set forth in the delivery confirmations dated February 22, 2019 and February 28, 2019 for tracking numbers 785484054171 and 785624501734, respectively. A true and correct copy of the delivery confirmation and tracking logs are attached hereto as Exhibit F.

9. According to the FedEx tracking log, several defendants refused delivery of both Packages including the following:

- a. Rizal Commercial Banking Corporation (“RCBC”), which mailroom refused delivery on several occasions between February 22, 2019 and March 20, 2019, as set forth in the tracking logs for tracking numbers 785483481765 and 785625763322. A true and correct copy of the tracking logs are attached hereto as Exhibit G.
- b. Lorenzo V. Tan, who refused delivery on several occasions between February 22, 2019 and March 20, 2019, as set forth in the tracking logs for tracking numbers 785483600230 and 785625590960. A true and correct copy of the tracking logs are attached hereto as Exhibit H.
- c. Raul Victor B. Tan, who refused delivery on several occasions between February 27, 2019 and March 20, 2019, as set forth in the tracking logs for tracking numbers 785483743795 and 785624877325. A true and correct copy of the tracking logs are attached hereto as Exhibit I.
- d. Michael Bautista, who refused delivery on several occasions between February 22, 2019 and March 20, 2019, as set forth in the tracking logs for tracking numbers 785477932272 and 785628337286.² A true and correct copy of the tracking logs are attached hereto as Exhibit J.
- e. Salud Bautista, who refused delivery on several occasions between February 22, 2019 and March 20, 2019, as set forth in the tracking logs for

² On February 22, 2018, FedEx delivered the Package to Michael Bautista’s residence at 12:40pm, and the Package was signed for by C. Salazar. Subsequently, and inconsistent with the earlier report, at 5:00pm, FedEx received notification that the delivery was being refused, and the Package was returned to FedEx, where it remained at the local FedEx “abandonment area.” See Footnote 1, *supra*.

tracking numbers 785478062987 and 785628173635.³ A true and correct copy of the tracking logs are attached hereto as Exhibit K.

f. Centurytex Trading, which refused delivery on several occasions between February 22, 2019 and March 14, 2019, as set forth in the tracking logs for tracking numbers 785479831520 and 785627459026. A true and correct copy of the tracking logs are attached hereto as Exhibit L.

10. I understand from my telephone discussions with FedEx representatives that although Defendant RCBC has a mailroom at which FedEx regularly delivers packages, personnel of RCBC have consistently refused delivery of the Packages originating from, and sent by, the Clerk of this Court.

11. According to the FedEx tracking log, several defendants were either not present at the address(es) to which the First Service Package was sent or the addresses were deemed incorrect by FedEx and those packages are being returned to me including the following:

- a. Angela Ruth Torres, as set forth in the tracking logs for tracking numbers 785483882497 and 785624690625. A true and correct copy of the tracking logs are attached hereto as Exhibit M.
- b. Brigitte R. Capiña, as set forth in the tracking logs for tracking numbers 785478911513, 785478721265, 785627879420, and 785627606999. A true and correct copy of these tracking logs are attached hereto as Exhibit N.
- c. Nestor O. Pineda, as set forth in the tracking logs for tracking numbers 785483102104, 785482920473, 785626285087, and 785626108877. A true and correct copy of these tracking logs are attached hereto as Exhibit O.
- d. William So Go, as set forth in the tracking logs for tracking numbers 785482117935 and 785626601865. A true and correct copy of these tracking logs are attached hereto as Exhibit P.
- e. Eastern Hawaii Leisure Company, Ltd. d/b/a Midas Hotel & Casino, as set forth in the tracking logs for tracking numbers 785480802550 and

³ On February 22, 2018, FedEx delivered the Package to Salud Bautista's residence at 12:40pm, and the Package was signed for by C. Salazar. Subsequently, and inconsistent with the earlier report, at 5:00pm, FedEx received notification that the delivery was being refused, and the Package was returned to FedEx, where it remained at the local FedEx "abandonment area." See Footnote 1, *supra*.

785626820226. A true and correct copy of these tracking logs are attached hereto as Exhibit Q.

12. After a number of attempts, I understand from my telephone discussions with FedEx representatives and the tracking logs, that the undelivered Packages are being returned to me as the sender.



GAIL BURWA

Sworn to me this 25th day of March, 2019



KELSHA L. WHITE

NOTARY PUBLIC STATE OF NEW YORK
KINGS COUNTY
LIC. #01WH6294520
COMM. EXP. 12/23/21